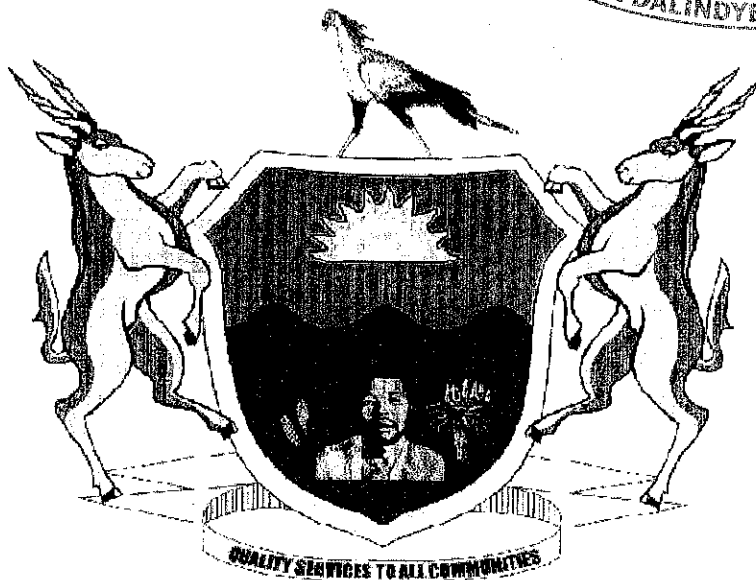
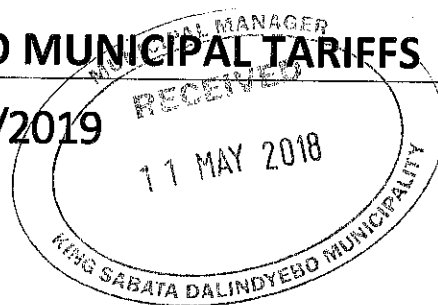


KING SABATA DALINDYEBO MUNICIPALITY



BY-LAW RELATING TO MUNICIPAL TARIFFS

2018/2019



Contents

1. DEFINITIONS	2
2. APPLICATION OF BY-LAW	5
3. OBJECTIVES AND PRINCIPLES OF THE TARIFF FRAMEWORK FOR MUNICIPAL SERVICES	5
4. ADOPTION AND IMPLEMENTATION OF THE TARIFF POLICY.....	6
5. GENERAL POWER TO LEVY AND RECOVER FEES, CHARGES AND TARIFFS	6
6. DIFFERENTIATION BETWEEN CONSUMERS AND GRANTING OF EXEMPTION	7
7. CATEGORIES OF CONSUMERS	7
8. DEPOSITS	7
9. TARIFF TYPES	8
10. UNITS OF MEASUREMENT AND METHOD OF CALCULATION	8
12. PHASING IN OF TARIFFS, FEES AND LEVIES	8
13. GENERAL MATTERS	8
14. ENFORCEMENT MEASURES.....	9
15. REPEAL OF BY-LAWS.....	9
16. SHORT TITLE AND COMMENCEMENT	9

To provide for the adoption and implementation of a tariff policy; for the general power to levy and recover fees, charges and tariffs and for matters incidental thereto.

PREAMBLE

- 1) Section 229(1) of the Constitution authorises a municipality to impose:
 - a) Rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
 - b) If authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls.
- 2) In terms of section 75A of the Local Government: Municipal Systems Act a municipality may:
 - a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
 - b) recover collection charges and interest on any outstanding amount.
- 3) In terms of section 74(1) of the Local Government: Municipal Systems Act, a municipal council must adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Local Government: Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
- 4) In terms of section 75(1) of the Local Government: Municipal Systems Act, a municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.
- 5) In terms of section 75(2) of the Local Government: Municipal Systems Act, by-laws adopted in terms of subsection 75(1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.
- 6) The Municipal Council of the King Sabata Dalindyebo Local Municipality, acting in terms of section 156 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), hereby adopts the following By-Law:

1. DEFINITIONS

"annual budget" means the budget approved by the municipality for any particular financial year and includes any adjustments to such budget;

"availability charges" means a monthly charge that the municipality may levy against immovable property with or without improvements, which is not connected to any municipal service works where such property can be reasonably so connected.

"Constitution" means the Constitution of the Republic of South Africa;

"community services" means services rendered by the municipality, which include, but are not limited to, environmental health, street cleaning, grass cutting and the operation of community halls and cemeteries;

"consumer" means the occupier of any premises to which the municipality has agreed to supply or is supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises;

"cost related two to four parts tariff" means a tariff that consists of two to four parts, name management, capital, maintenance and operating costs that are recovered by grouping certain components together (e.g. management, capital and maintenance costs may be grouped together and be recovered by a fixed charge) independent of consumption for all classes of consumers, while the variable costs may be recovered by a unit charge per unit consumed.

"Council" means the Council of King Sabata Dalindyebo municipality;

"Customer Care, Credit Control and Debt collection By-Law and Policy" means the municipal Customer care, Credit Control and Debt Collection By-Law and Policy adopted by the municipal council as required by section 96(b), 97 and 98 of the Municipal Systems Act;

"economic services" means services such as refuse removal and bulk disposal that the municipality renders for consumers and municipalities within the region and of which tariffs have been calculated with the intention that the total costs of the services are recovered from users;

"inclining block tariff" means a tariff based on consumption levels that are categorised into blocks, the tariff level being increased as consumption levels increase;

"interest" means an amount calculated at a rate determined by the municipality on a municipal account in arrears;

"local community" or "community" in relation to the municipality, means that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic, non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality and visitors and other people residing outside the municipality who, because of their presence, make use of services or facilities provided by the municipality;

"major services" means those services contemplated in section 9

"minor tariffs" means all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services, other than major services, supplied, and includes services incidental to the provision of the major services, but does not include tariffs for major services;

"month" means one of 12 months of a calendar year;

"Munitata Building" refers to the main administrative office of the municipality situated on Sutherland Street between York Street and Owen Street, Mthatha;

"MEC for local government" means the Member of the Executive Committee responsible for local government in the Eastern Cape Province;

"municipality" means King Sabata Dalindyebo Local Municipality, a category B municipality as envisaged in terms of section 155(1) of the Constitution and established with the merger of Mthatha and Mqanduli local areas in 2000 and also the geographic area, determined in terms of the Local Government: Municipal Demarcation Act No. 27 of 1998 as the municipal area pertaining to the municipality;

"municipal council" or "council" means the King Sabata Dalindyebo municipal council, a municipal council referred to in section 157(1) of the Constitution;

"municipal manager" means a person appointed in terms of section 54A of the Municipal Systems Act and Section 82 of the Municipal Structures Act, 1998 (Act No 117 of 1998) as the head of administration of the municipal council;

"municipal services" means all municipal services and charges for which payment is required by the municipality

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as amended from time to time;

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), as amended from time to time;

"occupier" means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes:

- a) Any person in actual occupation of those premises
- b) Any person legally entitled to occupy those premises
- c) In the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
- d) Any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- e) The owner of those premises

"organ of state" means an organ of state as defined in section 239 of the Constitution;

"outside municipal area" means tariffs that apply to consumers who are not residing within the municipal boundaries, but who are making use, on application, of certain municipal services;

"person" includes a legal person and an organ of state;

"premises" means any erf, immovable property or property which is capable of receiving municipal services whether it is receiving such services or not and whether occupied or not;

"regulatory tariff" means the tariff is only of a regulatory nature and the municipality may recover the full or a portion of the cost associated with rendering the service;

"single tariff" means a tariff consisting of a fixed cost per unit consumed, resulting in the recovery of all costs through unit charges at the level of breakeven consumption and on which profits on trading services may be allowed subject to Council approval;

"tariff policy" means a tariff policy adopted by the municipal council in terms of this By-law

"tariff" means fees and charges levied by the municipality in respect of any function or service provided by the municipality to the local community and includes a surcharge on such tariff but excludes the levying of rates by the municipality in terms of the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004).

"tariffs for major services" means tariffs set for the supply and consumption or usage of major services;

"trading services" means services such as electricity that the municipality renders to consumers and of which the tariffs are calculated that profits may be made thereon;

"total costs" means the sum-total of all fixed and variable costs related to a service;

"units consumed" means the number of units a particular service consumed and are measured in terms of the units of measurements contemplated in section 9 of this By-law; and

"variable costs" means costs that vary with increased or decreased consumption or volume produced.

If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

2. APPLICATION OF BY-LAW

This by-law shall only apply in respect of municipal services rendered by the municipality itself, or by an external mechanism in terms of a service delivery agreement, within the municipal area.

3. OBJECTIVES AND PRINCIPLES OF THE TARIFF FRAMEWORK FOR MUNICIPAL SERVICES

1. The tariff principles set out in Section 74(2) of the Act as well as the principles adopted by the municipality in its annual tariff policy shall apply.
2. With the exception of the indigent relief measures approved by the municipality, service tariffs should be viewed as user charges and not as taxes. The ability of the relevant consumers or users of the services to which such tariffs relate to pay for such services, should not be considered as relevant criteria.
3. Tariffs must reflect reasonable costs associated with the rendering of the service, in order to facilitate the financial sustainability of the service. Sustainability will be achieved by ensuring that:
 - (a) cash inflows cover cash outflows which means that sufficient provision for the asset replacement reserve and bad debts will be made
 - (b) access to the capital market is maintained which will be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits in order to subsidise property rates and general services
 - (c) service providers retain a fair rate of return on their investments
4. Services must be rendered in a manner that is economical, efficient and indicative of an effective use for resources.
5. Tariffs should be applied consistently and in an equitable manner to all consumers within the municipal area.
6. Tariffs for the following services must as far as possible recover the expenses associated with the rendering of each service concerned and, where feasible, generate a modest surplus as determined in each annual budget:
 - (a) Supply of electricity
 - (b) Refuse (solid waste) removal services
7. Tariffs may differentiate between different categories of consumers, municipal services and service standards as long as such differentiation does not amount to unfair discrimination.
8. Poor households must have access to at least basic services through
 - a) Tariffs that cover only operating and maintenance costs;
 - b) Special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service;
 - c) Any other direct or indirect method of subsidisation of tariffs to poor households;
9. Tariffs may make special provisions for certain categories of commercial and industrial consumers in order to promote local economic development.
10. Provision must be made for surcharges on tariffs in appropriate circumstances.
11. Efficient and effective use of resources must be encouraged by providing for penalties to prohibit or restrict exorbitant use.
12. The extent of subsidisation of tariffs must be disclosed and will include the extent of subsidisation of the indigent and incentives for local development.
13. In the case of directly measurable services, namely electricity, the consumption of such services must be properly metered and meters must be read, wherever possible, on a monthly basis, and the charges levied must be proportionate to the quantity of the service consumed.
14. The municipality may differentiate between types of property in order to determine availability charges, which will be contained in the tariffs, as approved in each annual budget.

15. In considering the costing of electricity and refuse services, the municipality must take due cognisance of the high capital cost of establishing and expanding such services and of the resultant high fixed costs, as opposed to variable costs of operating these services.
16. The municipality's tariffs for electricity services are determined to ensure:
 - (a) that those consumers who are mainly responsible for peak demand and therefore for the incurring by the municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
 - (b) that for the purposes of paragraph (a) demand meters are installed to measure the maximum demand of such consumers during certain periods; and
 - (c) that such consumers pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.
17. The tariff policy must include any further enforcement mechanisms or incentive schemes that the municipality may wish to impose in addition to those contained in the Customer care, Credit Control and Debt Collection By-Law and Policy.
18. Vat is excluded from all tariffs and will be added to these tariffs when applicable.

4. ADOPTION AND IMPLEMENTATION OF THE TARIFF POLICY

- a) The municipality shall adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements and which complies with the provisions of the Municipal Systems Act, the Municipal Finance Management Act and any other applicable legislation.
- b) The tariff policy adopted in terms of subsection 4(a) must be reviewed annually by the municipality.
- c) The municipality shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

5. GENERAL POWER TO LEVY AND RECOVER FEES, CHARGES AND TARIFFS

1. The municipality has the power to:
 - a) Levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
 - b) Recover collection charges and interest on any outstanding amount.
1. Fees, charges and tariffs referred to in subsection 1(a) are levied by resolution passed by the municipal council with a supporting vote of the majority of its members.
2. After a resolution contemplated in terms of subsection 1(c) has been passed, the Municipal manager must, with no delay-
2. Conspicuously display a copy of the resolution for a period of at least 30 days at the Munitata Building and at such other places within the municipality to which the public has access as the Municipal manager may determine;
3. Publish in a newspaper of general circulation in the municipality a notice stating-
 - a) That a resolution as contemplated in subsection 1(c) has been passed by Council;
 - b) That a copy of the resolution is available for public inspection during office hours at the Munitata building and at the other places specified in the notice; and
 - c) The date on which the determination will come into operation; and
4. Seek to convey the information referred to in paragraph 3 to the local community by means of radio broadcasts covering the area of the municipality.
5. The municipal manager must forthwith send a copy of the notice referred to in paragraph 3 to the MEC for local government concerned.

6. DIFFERENTIATION BETWEEN CONSUMERS AND GRANTING OF EXEMPTION

1. In accordance with the principles embodied in the Constitution and the provisions of sections 74(3) and 75 of the Local Government Municipal Systems Act, 2000, the municipality may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas, however, such differentiation must at all times be reasonable and must be fully disclosed in each annual budget.
2. The municipality may, in writing exempt a consumer, category of consumers, or other persons from complying with a provision of this by-law, subject to any conditions it may impose;
3. The municipality may not grant exemption from any section of this by-law that may result in:
 - (a) the wastage or excessive consumption of electricity;
 - (b) the evasion or avoidance of electricity restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment of services;
 - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard; or
 - (f) any Act, or any regulation made under it, not being complied with.
4. The municipality may at any time after giving written notice of at least 30 days, withdraw any exemption given under subsection (2).

7. CATEGORIES OF CONSUMERS

1. The tariff structure of the municipality may make provision for the following categories of consumers:
 - a) Domestic
 - b) Commercial
 - c) Industrial
 - d) Agricultural
 - e) Rural/urban
 - f) Agricultural within urban areas
 - g) Municipal services
 - h) Governmental and
 - i) Consumers who do not fall under any of abovementioned categories and with whom special agreements were entered into
2. Where there is a substantial difference between the infrastructure used to provide a service to a specific group of users within a category or standard of services provided, the Council may, after considering a report by the Municipal Manager or the relevant Head of Department, determine differentiated tariffs within a specific category.
3. The differentiation must be based on one or more of the following elements:
 - a) Infrastructure costs
 - b) Volume usage
 - c) Availability and service standards

8. DEPOSITS

On approval of an application and before a service is made available, the municipality may require the applicant to pay a deposit as required in terms of the municipality's Customer Care, Credit control and Debt collection by-law.

9. TARIFF TYPES

1. In determining the type of tariff applicable to the type of service, the municipality may use the following options, including, but not limited to:
 - a) Single tariff
 - b) Inclining block tariff
 - c) Cost related two-to-four part tariff
 - d) Availability charges, provided that once the municipality has provided a connection, normal tariffs as payable for the respective services provided, will be payable
2. The municipality may also use a combination of any of the options contemplated in subsection (1).

10. UNITS OF MEASUREMENT AND METHOD OF CALCULATION

1. The units of measurement and the method of calculation to determine tariffs must be revised annually as part of the budget process and must be reflected in the municipality's tariff policy.
2. Subject to section 2(12), directly measurable services, such as electricity, must be properly metered and meters must be read, wherever circumstances reasonably permit, on a monthly basis.

11. MINOR TARIFFS

All minor tariffs shall be approved by the Council in each annual budget and shall, when deemed appropriate, be subsidised by property rates and general revenues, particularly when:

- a) the tariffs will prove uneconomical when charged to cover the cost of the service concerned
- b) the cost cannot be determined accurately, or
- c) the tariff is designed purely to regulate.

12. PHASING IN OF TARIFFS, FEES AND LEVIES

Where newly calculated tariffs, fees and levies differ substantially from the current tariffs, fees and levies, the Council may resolve to phase in the differences over a period of time.

13. GENERAL MATTERS

Delegations

1. Subject to the Constitution and applicable national and provincial laws, any-
 - a) Power, excluding a power referred to in section 160(2) of the Constitution;
 - b) Function; or
 - c) Duty conferred, in terms of the By-law, upon the Council, or on any of the municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor or staff member, to an entity within, or a staff member employed by the municipality.
2. The delegation in terms of subsection 1(c) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Municipal Systems Act, subject to section 59(2) of said Act.
3. Any delegation contemplated in this section must be recorded in the System of Delegations, which must contain information on the-

**KING SABATA DALINDYEBO LOCAL MUNICIPALITY
TARIFF BY-LAW**

- a) Entity or person issuing the delegation or sub-delegation;
- b) Recipient of the delegation or sub-delegation; and
- c) Conditions attached to the delegation or sub-delegation.

14. ENFORCEMENT MEASURES

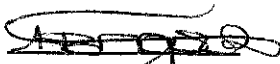
The municipality may, subject to the provisions of the Customer Care, Credit control and Debt Collection By-law, have the right to recover any amount due for the consumption of services in terms of this By-law from the owner of the property, where a tenant or other occupier of such property fails to do so.

15. REPEAL OF BY-LAWS

The provisions of any By-law previously promulgated by the municipality are hereby repealed as far as they relate to matters provided for in this By-law.

16. SHORT TITLE AND COMMENCEMENT

This By-law is called the King Sabata Dalindyebo Local Municipality: Tariff By-law 2018, and takes effect on the date of the publication thereof in the Provincial Gazette or as otherwise indicated in the notice thereto.



Z.H. NGOVELA

ACTING MUNICIPAL MANAGER

RESOLUTION NUMBER:

ORD 313/05/18

PROVINCIAL GAZETTE : _____